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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC 20554

IN THE MATTER OF

PROPOSAL TO REVISE THE  
METHODOLOGY FOR DETERMINING  
UNIVERSAL SUPPORT

CC DOCKET NO. 96-45

CC DOCKET NO. 97-160

DA 98-715-USF PROPOSAL

TO: THE COMMON CARRIER BUREAU

**REPLY COMMENTS OF THE ASSOCIATION OF COMPETITIVE  
TELECOMMUNICATION PROVIDERS**

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Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, the Association of Competitive Telecommunication Providers, Inc. ("APCT"), by its attorneys, submits these reply comments in response to the FCC's Public Notice dated April 15, 1998,<sup>1</sup> in the above referenced proceeding. In particular, the APCT replies to the "Comments of Puerto Rico Telephone Company"<sup>2</sup> submitted by the Puerto Rico Telephone Company ("PRTC"), which would maintain Universal Service support in "insular areas" at their current levels, should any proposed proxy model reduce support payments below their current levels.

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<sup>1</sup> "Common Carrier Bureau Seeks Comments on Proposals to Revise the Methodology for Determining Universal Service Support," FCC Public Notice, DA 98-715(rel. Apr. 15, 1998).

<sup>2</sup> In the Matter of Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LEC's, CC Docket Nos. 96-45 and 97-160, Comments of Puerto Rico Telephone Company (filed May 15, 1998) ("PRTC Comments").

## INTRODUCTION AND SUMMARY

On May 15, 1998, the APCT filed its comments in the above referenced proceedings<sup>3</sup> particularly responding to the "Proposal of Puerto Rico Telephone Company",<sup>4</sup> submitted by PRTC.

In its comments the APCT concurs with the PRTC Proposal finding that without this waiver, there would be drastic disruption of telecommunication services, and would put Puerto Rican telecommunications companies into financial turmoil, jeopardizing service to consumers.

Though APCT conditionally supports PRTC's Proposal, APCT requests that because of PRTC's anti-competitive and monopolistic behavior, and the overly broad language used in the proposal, PRTC and its proposal should be subject to additional conditions and modifications. The conditions that the APCT requested be imposed on PRTC were: the elimination of unlawful cross-subsidies; cost-based rates and charges; a "transition period" ending at a definite date; and that PRTC should be required to submit quarterly reports.

APCT Comments signaled that through PRTC's Proposal it was evident that PRTC wanted the FCC to essentially "reverse engineer" the USF formula in order to continue receiving its annual \$146 million subsidies.<sup>5</sup> This is now more evident PRTC's subtle argument in favor of the permanence of the 25/75 federal - state allocation formula for funding the Universal Service needs in Puerto Rico underscores its true intent. On the one hand, the argument rests on the erroneous

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<sup>3</sup> In the matter of Proposal to Revise the Methodology of Determining Universal Support, CC Docket Nos. 96-45 and 97-160, Comments of the Association of Competitive Telecommunication Providers (filed May 15, 1998) ("APCT Comments").

<sup>4</sup> In the Matter of Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LEC's, CC Docket Nos. 96-45 and 97-160, Proposal of Puerto Rico Telephone Company (filed Apr. 27, 1998) ("PRTC Proposal").

<sup>5</sup> See APCT Comments. at 7.

assumption that PRTC's costs of providing service throughout Puerto Rico are accurate and reasonable. On the other hand, given the inordinate gap between the federal contribution and the alleged support need for high cost service, if the universal support level is maintained at the 1998 level, the local state contribution needed would result in the imposition of a local contribution that would cripple competition and constitute an insurmountable barrier to entry in the local market.

### DISCUSSION

PRTC's Proposal is as follows:

"For any insular area that would receive less funding under the proposed proxy model methodology than that received under the methodology used in 1998, support for carriers serving a designated universal service area within such insular area (such as Puerto Rico) shall remain based on the 1998 methodology until at least January 1, 2001.

For carriers serving the insular areas identified above, there will be no transition to the proxy model methodology unless and until it can be determined that the model accurately predicts a carrier's cost of serving the area.

For the purposes of this methodology, "any insular area" means any state, commonwealth, or territory that may be classified as insular".<sup>6</sup>

In its comments, the APCT conditionally supported PRTC's Proposal, subject to: (1) the elimination of unlawful cross-subsidies; (2) cost-based rates and charges; (3) a "transition period" ending at a definite date and (4) require PRTC to submit quarterly reports.

PRTC Comments pointed out that "PRTC immediately realized that the application of the proxy model methodology to Puerto Rico would fail to ensure affordable rates and would result in devastating loss of federal universal service support of more than \$100 million".<sup>7</sup> PRTC also

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<sup>6</sup> PRTC Proposal at 2.

<sup>7</sup> PRTC Comments at 2.

explained that its "proposal addresses the inability of the proposed proxy model methodology to predict the cost of providing service in an insular area."<sup>8</sup>

As the APCT stated in its comments, PRTC wants the FCC to essentially "reverse engineer" the USF formula, in order to continue receiving its annual \$146 million in subsidies.<sup>9</sup> The APCT agrees in principle that the USF subsidy should correspond to the cost of providing the service in the particular area. However, the APCT urges the FCC to look closely at the data and formula used by PRTC to determine its cost of providing service. Furthermore, the FCC should require PRTC to submit data supporting its claims of cost. PRTC's position discussed in its proposal and comments, rests on the erroneous assumption that PRTC's costs in providing service are accurate and reasonable.

PRTC Comments underscore the intentions of PRTC. In their twisted view, PRTC believes that they have a inalienable right to receive the same level of revenue that they had prior to competition and that the Universal Service Fund is one of the ways for them to be made whole after their income is reduced due to competition. They do not want to consider the politically difficult actions of reducing cost by improving operations, reducing waste and eliminating its monopolistic practices. Neither do they want to consider eliminating implicit subsidies as required by the Telecommunication Act.

In its comments, the PRTC also dismisses the proposals of other parties seeking to increase the federal share of support from the current level of 25 percent.<sup>10</sup> It seems clear that PRTC should

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<sup>8</sup> PRTC Comments at 3.

<sup>9</sup> APCT Comments at 7.

<sup>10</sup> PRTC Comments at 4.

not care where the funds come from, therefore their opposition to increasing the federal subsidy can only be logically linked to their intention that the local universal service fund tax would become a formidable barrier to the competition. Hence, if the PRTC Proposal and Comments are approved, without the conditions and modifications requested by the APCT in its comments, PRTC would achieve the objectives of (1) maintaining the USF support at the current levels which can not be supported by a sensible forward looking cost methodology and do nothing to improve the operational efficiencies of PRTC, and (2) raise a huge barrier that would impede an effective competition by means of a large local tax on gross revenues.

### CONCLUSION

For the foregoing reasons, the APCT supports PRTC's request to postpone the application of the forward-looking cost model to Puerto Rico until January 1, 2001, subject to the conditions and modifications specifically contained on APCT Comments.

Respectfully Submitted,

ASSOCIATION OF COMPETITIVE  
TELECOMMUNICATION PROVIDERS, INC.

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Date: May 29, 1998

### CERTIFICATE OF SERVICE

I, Rhonda M. Johnson, a secretary in the law offices of Joyce & Jacobs, do hereby certify that the foregoing Reply Comments of the Association of Competitive Telecommunications Providers was served, on this 29th day of May, 1998, by first class U.S. mail, postage prepaid upon the following:

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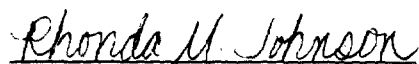
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